

directions) must be kept entirely distinct from their function as beneficiaries (seeking an order in the terms of para. 3 of the Summons). This would involve, as I understand it, instructing two counsel, one to represent them as trustees and the other to represent them as beneficiaries. I think it is impossible to lay down any general rule which would be applicable to every case in which the trustees of a will have an interest as beneficiaries in the questions which are to be determined. Each case must depend upon its own facts, and the trustees in each case must act as they think proper having regard to the responsibilities of their position as trustees; and in case of doubt they can apply to the court for directions. But in this case it seems to me that they did all that was required of them in serving all persons who might be interested and in asking the Court to appoint counsel to argue the case for the other side. The point is that they have ensured that the Court, before giving its directions, had the advantage of having both sides fully argued. A further matter which it was necessary for the trustees to consider was the question of who would be damnified by an order made in the terms of para. 3 of the summons. With regard to the pecuniary trust in clause 8 only the two trustees and Rajagopal are concerned. Whether they take an absolute interest in the property now or whether they receive the rents and profits until after the period has expired and then take it absolutely is a question in which no one is interested except themselves and Rajagopal. As for the burial ground trust, I suppose it is possible that if I had held this to be a charitable trust some unspecified person or persons might have benefitted from the application in some way of the cypres doctrine. But before this could happen it was necessary to establish the proposition that the trust was a charitable trust. And in order that that proposition might be argued before the Court the trustees secured the appointment of Mr. Goho as counsel to argue it. Therefore it seems to me that in this case the trustees have done all that the responsibilities of their position demanded them. But I must make it plain that I am only expressing my view on the facts of this particular case.

The answers to the two questions contained in paragraphs (1) and (2) of the Originating Summons are in the affirmative, and an Order will issue in the terms of paragraphs 3 thereof.

Costs on the Higher Scale to be taxed between Solicitor and Client and paid out of the estate.

Order Accordingly.

HO KIAT SWEE v. REX.

[Appellate Crim. Juris. (Jobling, J.) December 18, 1946]

Opium and Chandu Proclamation, No. 43 of 1946
— *Sufficiency of certificate to show that article is chandu.*

In this case the prosecution put in a certificate to show that an article in question was chandu. The certificate did not show that the chemist who signed the certificate analysed the articles sent to him or any one of them; nor did it show that when he referred to the articles as Chandu he was aware of the technical definition of the word "Chandu" in the Proclamation and was satisfied that it came within that definition.

Held, that the certificate was an insufficient one and as it was the only evidence for the prosecution that the article found on the accused's premises was chandu, the result was that the prosecution had not proved its case and the conviction must be quashed.

MAGISTRATE'S APPEAL.

D. K. Walters and Wee Chong Jin for the Appellant.

A. W. Bellamy for the Respondent.

Jobling, J. : — The certificate in this case is an extremely unsatisfactory one. It is the only evidence for the Prosecution that the article found on the accused's premises is Chandu within the meaning of this term in the Opium and Chandu Proclamation No. 43 of 1946.

I think it is a sufficient certificate of a Chemist of the Department of Chemistry and so far complies with the provisions of the law but it does not show that the Chemist who signed the certificate analysed the articles sent to him or any one of them. Further it does not show that when he refers to the articles as Chandu he was aware of the technical definition of the word "Chandu" in the proclamation (paragraph 23) and was satisfied that it came within that definition.

In the circumstances I take the view that the Prosecution has not proved its case in the matter and my only course is to quash the conviction and the conviction is quashed accordingly.

Conviction Quashed.

JANGIR SINGH v. REX.

[Appellate Criminal Jurisdiction (Murray-Aynsley, C.J.)
April 30, 1947]

Evidence Ordinance, Section 25 — Distinction between a confession and admission.

This was an appeal against a conviction for possession of firearms and explosives. The evidence showed that a police officer found two revolvers. Later it was alleged that the appellant came to the police officer and asked him "Have you taken my pistol or not?" The only point argued on the appeal was whether this amounted to a confession.

Held, that as the statement in the present case was sufficient to discharge the burden of proof on the pro-

secution, it must be considered as a confession and being made to a Police Officer was inadmissible because of section 25 of the Evidence Ordinance.

MAGISTRATE'S APPEAL.

J. K. Gale for the Appellant.

C. H. Butterfield for the Respondent.

Murray-Aynsley, C. J.:—In this case the appellant was charged as follows:—

That he, on or about the 13th day of May, 1946, at Singapore, not being authorized thereto by licence had in his possession certain firearms, namely, two 38 Smith and Wesson revolvers, in contravention to section 7 (1) A Cap. 196 and punishable under section 74 (4) Cap. 196 Arms and Explosives.

Secondly. That he, on or about the 13th May, 1946, at Singapore, had in his possession explosives, namely 3 rounds of ammunition as included in Class 6 of Part II as published in Gazette Notification No. 519 of 1915 in contravention to rule 6 and punishable under rule 11 Arms and Explosives (Explosives) Rules 1915—1939 made under section 37 of Cap. 196.

The evidence showed that a police officer found two revolvers. Later it was alleged that the appellant came to the police officer and asked him "Have you taken my pistol or not?"

The only point in this case is whether this amounted to a confession.

By section 25 of the Evidence Ordinance no confession made to a police officer shall be proved as against a person accused of any offence.

It should be noted that by the terms of this section it is immaterial whether the person making the confession was in custody or whether he was at that time accused of any offence.

The difficulty in these cases is to distinguish between a mere admission which may be proved and a confession which may not.

As the statement in the present case was sufficient to discharge the burden of proof of the prosecution, it is hard to see how it cannot be considered a confession. The appeal must be allowed and the conviction quashed.

Appeal Allowed.

IN RE THOMAS ERIC ATKINSON.

[Original Civil Juris. (Jobling, J.) January 3, 1947]

Advocates and Solicitors Ordinance (Cap. 62), Section 5 (2)—Petition to shorten period during which Petitioner is required to attend and receive instructions in law in an office in the Colony.

In this case the petitioner prayed the Court inter alia to shorten the period during which he is required to attend and receive instruction in an office in the Colony of a practising Advocate and Solicitor of not less than seven years' standing in the Colony. The petition showed that the petitioner served in the Legal Branch

of the Royal Air Force, South East Asia Command from an unspecified date in 1944 until September 1946 and that part of that service namely from October 1945 till September 1946 was in Singapore. The petition also showed that the petitioner has attended at the office of an Advocate and Solicitor of seven years' standing for 77 days and that he has received instruction from three local Advocates and Solicitors and studied the local laws with a view to admission.

Held, (1) that the policy of Section 5 (3) of the Advocates and Solicitors Ordinance is that practitioners shall, before admission, acquire such knowledge and experience of local laws and practice as will ordinarily be obtained by attending at the office of a local practising Advocate and Solicitor of not less than seven years' standing for the prescribed period; (2) that therefore any special grounds advanced in support of an application under Section 5 (5) of the Advocates and Solicitors Ordinance to shorten the prescribed period must satisfy the Court either, that it is in the public interest or otherwise desirable that this policy should not be strictly adhered to in a particular case, or that the petitioner has acquired the requisite knowledge and experience in a manner or period other than provided; (3) that the facts relied upon by the petitioner in this case were not sufficient to satisfy the Court that he has had an opportunity of acquiring the kind and amount of local knowledge and experience envisaged by Section 5 (3) of the Advocates and Solicitors Ordinance.

PETITION FOR ADMISSION OF ADVOCATE AND SOLICITOR.

R. L. Eber for the Petitioner.

N. A. Mallal for the Singapore Bar Committee.

Jobling, J.:—This petition under the Advocates and Solicitors' Ordinance (Cap. 62) prays the Court

- (1) to shorten the period during which the notice referred to in sub-section (2) of Section 5 of the Advocates and Solicitors Ordinance is required to be posted;
- (2) to shorten the period during which the Petitioner is required to attend and receive instruction in law in an office in the Colony of a practising Advocate and Solicitor of not less than 7 years standing in the Colony; and
- (3) to admit and enrol the Petitioner forthwith an Advocate and Solicitor of this Court.

The first two Prayers are for a relaxation of the Provisions of Sub-sections (2) and (3) of Section 5 of the Ordinance which prescribe, that before an Order shall be made by the Court on a petition for admission, notice of the Petition shall be posted for 6 months at the Registrar's office and the Petitioner (if a Solicitor of the Supreme Court of England as in this case) shall have received instruction in law in the office in the Colony of a practising Advocate and Solicitor of not less than 7 years standing for a period of not less than 6 months. This Court is empowered by Sub-section: